

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re SONY BMG CD TECHNOLOGIES LITIGATION	:	Civil Action No. 1:05-cv-09575-NRB
	:	
	:	<u>CLASS ACTION</u>
	:	
This Document Relates To:	:	DECLARATION OF IRA P. ROTHKEN, ESQ.
	:	FILED ON BEHALF OF ROTHKEN LAW
ALL ACTIONS.	:	FIRM LLP IN SUPPORT OF RICCIUTI
	:	GROUP'S MOTION FOR AWARD OF
<hr/>	x	ATTORNEYS' FEES AND
		REIMBURSEMENT OF EXPENSES

I, Ira P. Rothken, Esq., declare as follows:

1. I am the managing partner and member of the Rothken Law Firm LLP. I am submitting this declaration in support of my firm's application for an award of attorneys' fees in connection with services rendered in the above-entitled action and the reimbursement of expenses incurred by my firm in the course of this litigation.

2. This firm is counsel of record for plaintiff LAURA KLEMM.

3. The identification and background of my firm and practice, taken from our web site at [www.techfirm.com](http://www.techfirm.com), is attached hereto as Exhibit A.

4. A detailed description of contemporaneous time records, including the date, hours expended and the nature of work done related to the facts and issues in this case is attached hereto as Exhibit B.

5. The total number of hours spent on this litigation by my firm is 29.1 hours. The total lodestar amount for attorney time based on the firm's current rates is \$425/hour. The hourly rates shown below are my usual and customary rates for cases like this one. A breakdown of the lodestar is as follows:

**INCEPTION THROUGH MARCH 29<sup>th</sup>, 2006**

NAME		HOURS	RATE	LODESTAR
Ira P. Rothken	P	29.1	425/hr	\$12,367.50
<b>TOTAL:</b>		<b>29.1</b>	<b>425/hr</b>	<b>\$12,367.50</b>

(P) Partner

(A) Associate

(PL) Paralegal

(CA) Contract Attorney

or (OC) Of Counsel

6. My firm incurred a total of **\$748 dollars in unreimbursed expenses** in connection with the prosecution of this litigation. They are for fax and filing and related filing fees for the

complaint via One Legal, courier services, service of process, scanning and copying and for online legal research using Lexis, Westlaw, Online Library Research and others. These vendors included: Disclosure, Inc., Dow Jones Interactive, Dow Jones & Co., Inc., Lexis Nexis, CDA Investment Technologies, Pacer Service Center, West Publishing Corporation, and other online services. These databases were used to obtain access to information regarding the legal and technical issues in the case and defendant and to do media searches related to this case and related issues. The charges for these vendors vary depending upon the type of services requested.

7. The expenses incurred pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, electronic reports, and check records and are an accurate record of the expenses incurred.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct. Executed this 29th day of March, 2006, at Novato, California.

A handwritten signature in black ink, appearing to read 'Ira P. Rothken', is written over a horizontal line.

Ira P. Rothken, Esq.

**Exhibit “A”**

Ira P. Rothken began the Northern California based Rothken Law Firm (www.techfirm.com) in 1993 and the firm has evolved to emphasize complex consumer, class action, and high technology related litigation. The firm has been involved in a number of groundbreaking high technology cases requiring the blend of both technical and legal skills including being appointed co-lead settlement class counsel in a nationwide consumer privacy lawsuit brought against DoubleClick (which nationwide class action settlement was approved by this Court) in *In re DoubleClick*, bringing suit against a Music CD Recording Company to prevent their Digital Rights Management scheme from violating consumer privacy rights similar to this case in *DeLise v. Sunncomm et al*, bringing suit on behalf of consumers against Microsoft and others related to their software “EULA” policies and shrinkwrap policies in *Baker v. Microsoft et al*, and defending the rights of consumers to use their ReplayTV devices (digital video recorders) in *Newmark v. Turner (the ReplayTV case)*.

Mr. Rothken has appeared as a guest legal expert on television, in seminars, and radio, including CNN (internet privacy), NBC (internet copyright), CBS (internet privacy), CNET radio (internet copyright and privacy), and Court TV (multiple appearances for internet gambling issues and copyright issues), and has been quoted in numerous publications including legal newsletters, newspapers (Wall Street Journal, Newsday, NY Times), magazines, and law review articles. Mr. Rothken has given legal seminars in conjunction with the Practicing Law Institute, Sedona Conference, and the Recorder legal newspaper on numerous Internet law related topics including Internet Privacy and Copyright issues.

**Exhibit "B"****Time Card Listing**

Run Time : Mar-29-2006

***Rothken Law Firm*****Original Amounts From: 11/1/2005 To: 3/29/2006**

Date	Status	Activity	Timekeeper	Duration	Rate	Amount
Item Name						
Description						
Start/Stop Times						

***Sony******Sony/DRMClassAction***

3/3/2006	Open	A100-Activities	Ira Rothken	0.500	425.00	212.50
Reviewed status of the cases;						
1/5/2006	Open	A100-Activities	Ira Rothken	1.500	425.00	637.50
Reviewed details of draft settlement; Online research;						
12/30/2005	Open	A100-Activities	Ira Rothken	0.800	425.00	340.00
Conference with Cindy Cohn of EFF regarding settlement issues and related procedures;						
12/30/2005	Open	A100-Activities	Ira Rothken	0.800	425.00	340.00
Reviewed MDL notice and filed via fax an appearance in MDL proceedings;						
12/27/2005	Open	A100-Activities	Ira Rothken	1.000	425.00	425.00
Reviewed MDL Motion; Reviewed MDL procedures;						
12/9/2005	Open	A100-Activities	Ira Rothken	1.000	425.00	425.00
Reviewed online dockets; Drafted notice of related cases;						
12/9/2005	Open	A100-Activities	Ira Rothken	2.300	425.00	977.50
Finalized class action complaint and filed it in Federal Court in the Northern District of California; Coordinated the service of process and coordiante with Robert Green;						
12/8/2005	Open	A100-Activities	Ira Rothken	0.500	425.00	212.50
Online research related to media issues, technical issues, and other case filings;						
12/8/2005	Open	A100-Activities	Ira Rothken	1.000	425.00	425.00
File review; Legal research; Communicated with Cindy Cohn of EFF regarding our support for EFF case leadership along with Robert Green as co-lead counsel under Rule 23g factors;						
12/7/2005	Open	A100-Activities	Ira Rothken	4.000	425.00	1,700.00
Reviewed client materials and performed some tests with CDs; Legal and technical research related to the Rootkit issue;						

12/2/2005	Open	A100-Activities	Ira Rothken	1.000	425.00	425.00
Conference call with EFF staff attorneys regarding overall case strategy and related issues;						
12/2/2005	Open	A100-Activities	Ira Rothken	1.800	425.00	765.00
File review; drafted outline for class action complaint; Drafted additional claims for relief;						
11/28/2005	Open	A100-Activities	Ira Rothken	0.800	425.00	340.00
File review; Pacer print out review; Provided a recommended procedural strategy to Cindy Cohn of EFF related to the case including the need to get into Federal Court and likely MDL issues in the horizon;						
11/14/2005	Open	A100-Activities	Ira Rothken	1.500	425.00	637.50
Reviewed archive; File review; Provided copy of the Sunncomm DRM complaint and settlement agreement to Cindy Cohn of EFF for use in the Sony class action case;						
11/12/2005	Open	A100-Activities	Ira Rothken	0.300	425.00	127.50
File review; Communicated via e-mail with Cindy Cohn of EFF the need to send Sony et al a "Daimler" catalyst letter;						
11/12/2005	Open	A100-Activities	Ira Rothken	0.500	425.00	212.50
Communicated with Cindy Cohn of EFF about bringing claims against Sony et al regarding DRM and Rootkit issues; Discussed checklist for complaint;						
11/3/2005	Open	A100-Activities	Ira Rothken	4.500	425.00	1,912.50
Reviewed Russinovich Sony Rootkit analysis; Reviewed past legal research regarding DRM in the Sunncomm matter; Reviewed prior settlement agreement with Sunncomm; Reviewed causes of action for class action against Sony et al; Reviewed consumer complaints;						
11/2/2005	Open	A100-Activities	Ira Rothken	5.300	425.00	2,252.50
Evaluated Russinovich Sony Rootkit analysis and complaints regarding Sony DRM and related "Rootkit" issues; Researched technical issues; Reviewed legal research; Drafted checklist for DRM complaint against Sony et al;						
<b>Total for Sony/DRMClassAction</b>				<b>29.100</b>		<b>12,367.50</b>
<b>Total for Sony</b>				<b>29.100</b>		<b>12,367.50</b>
<b>Grand Total</b>				<b>29.100</b>		<b>12,367.50</b>